

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellants: Samuel A. Massey.	<u>CERTIFICATE OF FACSIMILE TRANSMISSION</u> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.
Title: PRINTER STRUCTURE	<i>Todd A. Rathe</i> (Printed Name)
Appl. No.: 10/798,509	(Signature)
Filing Date: 03/11/2004	(Date of Deposit)
Examiner: Nguyen, Lamson D.	
Art Unit: 2861	

BRIEF ON APPEAL

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware corporation, headquartered in Palo Alto, California. The general or managing partner of HPDC is HPQ Holdings, LLC.

2. Related Appeals and Interferences

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the present appeal, that are known to Appellant or Appellant' patent representative.

3. Status of Claims

Claims 1-49 were originally pending in the application. In response to a restriction requirement mailed on June 28, 2006, Appellant elected claims number 1-48 for examination in a response filed on July 26, 2006. In a first substantive Office Action mailed on October 6, 2006, claim 49 was withdrawn from consideration; claims 26-28 and 39-46 were objected to and claims 1-25, 29-38 and 47 -48 were rejected. In Appellant's response filed on January 3, 2007, claims 10, 37, 39, 47, 48 and 49 were canceled; claims 1, 7-9, 15-16, 22, 25-26, 28, 38, 40 and 45 were amended and claims 50-55 were added. On March 21, 2007, the Examiner issued a second restriction requirement. On April 20 3, 2007, Appellant elected, with traverse, claims 1-9, 11-27, 50-51 and 53-55. On July 30, 2007, the Examiner issued in Office Action withdrawing the previously indicated a liability of claims of role 10-28 and 30-46 while rejecting claims 1-9, 11-27, 50-51 and 53-55 under 35 USC 112, second paragraph. On October 29, 2007, Appellant filed a response amending claim 7. On January 28, 2008, the Examiner issued a Final Office Action rejecting claims 1-9, 11-27, 50-51 and 53-55 under 35 USC 112, second paragraph. This is an appeal from the Final Office Action mailed on January 28, 2008 in which claims 1-9, 11-27, 50-51 and 53-55 were rejected. Claims 28-36, 38, 40 and 46 and 52 stand withdrawn from consideration.

4. A Status of Amendments

No amendments after the Final Office Action were filed.

5. Summary of Claimed Subject Matter

A. Claim 1

Claim 1 recites a printer comprising:

a printhead (62) along a media path (136) having a first width (see Figures 6-7; page 4, lines 26-29); and

a structure (162) having an edge (164) extending across a majority of the first width of the media path (136) (page 7, lines 20-page 8, line 2) wherein the edge (164) of the structure (162) has a first continuous segment (180) extending along a first portion of the first width of the media path and a second continuous segment (182) spaced from the first continuous segment extending along a second portion of the first width of the media path (page 9, lines 13-25).

B. Claim 2

Claim 2 depends from claim 1 and further recites that the printer includes an ink recipient (160) extending across the media path (page 6, line 28-page 7, line 4).

C. Claim 21

Claim 21 depends from claim 1 and further recites an ink receiving cavity (160), wherein the first segment (180) and the second segment of print (182) are separated by a channel (188) having a tapered floor (198) configured to drain collected ink to the ink receiving cavity (page 11, lines 18-25).

D. Claim 53

Claim 53 recites a printer comprising:

a printhead (62) along a media path (136) having a first width (see Figures 6-7; page 4, lines 26-29; page 6, lines 11-19); and

a structure (162) having an edge (164) extending across a majority of the first width of the media path (136), wherein the edge (164) extends between a first channel (184) and a second channel (188) and wherein the

first channel (184) and second channel (188) each have a width of at least about 4 millimeters (page 9, lines 13-17; page 10, lines 3-5; page 11, lines 26-29; page 18, lines 5-8).

E. Claim 54

Claim 54 recites a printer comprising:

a printhead (62) along a media path (136) having a first width (page 6, lines 11-19);

a structure (162) having an edge extending across a majority of the first width of the media path; and

an ink recipient (160) extending across the media path of print 136), wherein the structure is configured to elevate the medium above collected ink of the ink recipient (160) by a distance of at least about 2 millimeters (page 14, lines 10-14; page 18, lines 20-22)..

F. Claim 55

Claim 55 recites a printer comprising:

a printhead (62) along a media path (136) having a first width (page 6, lines 11-19);

a structure (162) having an edge extending across a majority of the first width of the media path; and

an ink recipient (160) extending across the media path (136); and

a landing (168) opposite the structure, wherein the ink recipient extends between the landing (168) and the structure (162) and wherein the landing (168) and the structure (162) are configured to support the media such that the media extends in an arc across the ink recipient (Page 12, line 26 - page 13, line 2).

6. Grounds of Rejection to be Reviewed on Appeal

The issues on appeal are whether the Examiner erred in rejecting claims 1-9, 11-36, 38, 40-46 and 50-55 under 35 USC 112, second paragraph.

7. Argument

I. Legal Standards

Law Regarding 35 USC 112, Second Paragraph

35 U.S.C. 112 , Second Paragraph states.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

As noted by MPEP 2172.01 a claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, first paragraph, as not enabling. In *re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See also MPEP § 2164.08(c). Such essential matter may include missing elements, steps or necessary structural cooperative relationships of elements described by the applicant(s) as necessary to practice the invention.

In addition, a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention. See *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976); *In re Collier*, 397 F.2d 1003, 158 USPQ 266 (CCPA 1968). >But see *Ex parte Nolden*, 149 USPQ 378, 380 (Bd. Pat. App. 1965) ("[I]t is not essential to a patentable combination that there be interdependency between the elements

of the claimed device or that all the elements operate concurrently toward the desired result"); *Ex parte Huber*, 148 USPQ 447, 448-49 (Bd. Pat. App. 1965) (A claim does not necessarily fail to comply with 35 U.S.C. 112, second paragraph where the various elements do not function simultaneously, are not directly functionally related, do not directly intercooperate, and/or serve independent purposes.).<

III. The Examiner's Rejection of Claims 1-9, 11-36, 38, 40-46 And 50-55 under 35 USC 112, Second Paragraph Should Be Reversed Because the Claims Do Not Omit Essential Subject Matter and Recite "Interrelationships" between Claim Elements.

Claims 1, 2, 21 and 53-55

With respect to each of claims 1, 2, 21 and 53-55, the Examiner repeatedly asserts that there is no claimed relationship between the noted structures. This is not true.

A. Claim 1

With respect to claim 1, the Examiner asserted that there is no relationship between the structure and the print head.

However, in claim 1, the print head is recited as extending along a media path having a first width. The structure is recited as having an edge extending across a majority of the first width of the media path. Thus, the two recited elements are associated with one another via the media path.

B. Claim 2

With respect to claim 2, the Examiner asserts that there is no relationship between the ink recipient and the structure and the print head.

However, in claim 2, the ink recipient is recited as extending across the media path. Thus, the ink recipient is associated with the print head and the structure by means of the recited media path.

C. Claim 21

With respect to claim 21, the Examiner asserts that there is no relationship between Inc. receiving cavity and the print head and the structure.

However, claim 21 recites an ink receiving cavity. Claim 21 further recites that the first segment and the second segment (recited in claim 1) are

separated by a channel having a tapered floor configured to drain collected ink to the ink receiving cavity. The first segment and the second segment are part of the recited structure which extends across a majority of the first width of the media path. The print head is recited as extending along the media path. Thus, each of the elements is associated with one another in the claim.

D. Claims 53-55

With respect to claims 53-55, the Examiner asserts that there is no relationship between the structure the print head.

However, in claim 53, the print head is recited as extending along a media path. The structure is recited if any across a majority of the media path. Thus to element are associated with one another.

In claim 54, the print head is recited as being a long a media path. The structure is recited as having an edge extending across a majority of the media path. The ink recipient recited as extending across the media path, wherein the structure is configured to elevate the medium above collected ink of the ink recipient. Thus, each element is associated with one another in the claim.

In claim 55, the print head is recited as extending along a media path. The structure is recited as having edge extending across the media path. The ink recipient as recited as extending across the media path. The landing as recited as attending opposite the structure.

Thus, each element is associated with one another in the claims. The law does not require that a physical structural connection be recited in the claims. If such were the case, many issued patents directed to general systems, optical systems, wireless networks and the like would all be invalid since all of the elements could not be claimed as being physically structurally connected to one another. In contrast to the assertion made by the Examiner, the claims do particularly point out and distinctly claim the subject matter of

the invention and are in compliance with 35 USC 112, second paragraph. Accordingly, the rejection of each of claims 1, 2, 21 and 53-55 is without merit and should be reversed. The rejection of claims 3-9, 11-20, 22-36, 38, 40-46, and 50-52 which depend from such claims should be reversed for at least the same reasons.

Conclusion

In view of the foregoing, the Appellant submits that claims 1-9, 11-36, 38, 40-46 and 50-55 are not properly rejected under 35 U.S.C. 112, Second Paragraph and are therefore patentable. Accordingly, Appellant respectfully requests that the Board reverse all claim rejections and indicate that a Notice of Allowance respecting all pending claims should be issued.

Summary

For the foregoing, it is submitted that the Examiner's rejections are erroneous, and reversal of the rejections is respectfully requested.

Dated this 28th day of May, 2008.

P.O. Address:

RATHE PATENT & IP LAW
10611 W. Hawthorne Farms Lane
Mequon, WI 53097
Telephone: (262) 478-9353

Respectfully submitted,

By Todd A. Rathe

Todd A. Rathe
Registration No. 38,276

CLAIMS APPENDIX

1. (Previously Presented) A printer comprising:

a printhead along a media path having a first width; and

a structure having an edge extending across a majority of the first width of the media path, wherein the edge of the structure has a first continuous segment extending along a first portion of the first width of the media path and a second continuous segment spaced from the first continuous segment extending along a second portion of the first width of the media path.
2. (Original) The printer of Claim 1 including an ink recipient extending across the media path.
3. (Original) The printer of Claim 2, wherein the ink recipient includes an ink receiving cavity extending across the media path.
4. (Original) The printer of Claim 3 including an ink absorbent material within the ink receiving cavity.
5. (Original) The printer of Claim 1, wherein the edge extends substantially across the media path.
6. (Original) The printer of Claim 1, wherein the edge extends perpendicular to the media path.
7. (Previously Presented) The printer of Claim 1 including a tapered surface adjacent the edge and configured to lift a leading edge of a medium.
8. (Previously Presented) The printer of Claim 2 including a landing opposite the edge, wherein the ink recipient extends between the edge and the landing.

9. (Previously Presented) The printer of Claim 8, wherein the edge and the landing are spaced to substantially prevent a portion of a medium from making contact with collected ink of the ink recipient.

10. (Canceled)

11. (Previously Presented) The printer of Claim 1, wherein the first continuous segment has a second width at least about 80.5 millimeters.

12. (Previously Presented) The printer of Claim 1, wherein the edge has a second continuous segment spaced from the first segment.

13. (Previously Presented) The printer of Claim 1, wherein the first segment and the second segment are spaced apart by about 6 millimeters.

14. (Previously Presented) The printer of Claim 1, wherein the first segment has a second width of no greater than 85.0 millimeters and wherein the second segment is spaced from the first segment by at least 4 millimeters.

15. (Previously Presented) The printer of Claim 1, wherein the first continuous segment terminates at a first end wall and a second end wall and wherein the first continuous segment has a length configured such that a first medium overhangs each of the first end wall and the second end wall by at least 2 millimeters.

16. (Previously Presented) The printer of Claim 15, wherein the first end wall and the second end wall are spaced such that the first medium overhangs each of the first end wall and the second end wall by a distance of at least 3 millimeters.

17. (Original) The printer of Claim 15, wherein the second continuous segment terminates at a third end wall and a fourth end wall and wherein the fourth end wall is spaced from the first end wall such that a

second medium overhangs the first end wall and the fourth end wall by a distance of at least 2 millimeters.

18. (Original) The printer of Claim 17, wherein the first end wall and the fourth end wall are spaced such that the second medium overhangs the first end wall and the fourth end wall by a distance of at least 3 millimeters.

19. (Original) The printer of Claim 15, wherein the second continuous segment terminates at a third end wall spaced from the second end wall such that the first medium overhanging the second end wall spaced from the third end wall by a distance of at least 2 millimeters.

20. (Original) The printer of Claim 1, wherein the edge extends between a first channel and a second channel and wherein the first channel and second channel each have a width of at least about 4 millimeters.

21. (Previously Presented) The printer of Claim 1 including an ink receiving cavity, wherein the first segment and the second segment are separated by a channel having a tapered floor configured to drain collected ink to the ink receiving cavity.

22. (Previously Presented) The printer of Claim 1, wherein the structure includes:

a first channel adjacent a first end of the first segment;

a second channel adjacent a second end of the first segment and adjacent a first end of the second segment; and

a third channel adjacent a second end of the second segment.

23. (Original) The printer of Claim 22, wherein each of the first channel, the second channel and the third channel has a width of at least about 4 millimeters.

24. (Original) The printer of Claim 22, wherein each of the first channel, the second channel and the third channel has a tapered floor.

25. (Previously Presented) The printer of Claim 2, wherein the structure is configured to elevate the medium above collected ink of the ink recipient by a distance of at least about 2 millimeters.

26. (Previously Presented) The printer of Claim 2 including a landing opposite the structure, wherein the ink recipient extends between the landing and the structure and wherein the landing and the structure are configured to support the media such that the media extends in an arc across the ink recipient.

27. (Original) The printer of Claim 26, wherein the printhead is configured to dispense ink to the media at an apex of the arc.

28. (Withdrawn) A platen for use in a printer including a media path, the platen comprising:

an edge configured to extend across a majority of a width of the media path while contacting a print medium, wherein the edge has a first continuous segment extending along the first portion of the width of the media path and a second continuous segment spaced from the first segment extending along a second portion of the width of the media path.

29. (Withdrawn) The platen of Claim 28 including at least one structure forming an ink receiving cavity having a width extending across the media path.

30. (Withdrawn) The platen of Claim 29 including an ink absorbent material within the ink receiving cavity.

31. (Withdrawn) The platen of Claim 29, wherein the at least one structure and the edge are integrally formed as part of a single unitary body.

32. (Withdrawn) The platen of Claim 29 including a landing opposite the edge, wherein the ink receiving cavity extends between the first edge and the landing.

33. (Withdrawn) The platen of Claim 32, wherein the edge and the landing are spaced to substantially prevent a portion of the medium from making contact with the collected ink within the ink receiving cavity.

34. (Withdrawn) The platen of Claim 28, wherein the edge extends substantially across the media path.

35. (Withdrawn) The platen of Claim 28, wherein the edge extends perpendicular to the media path.

36. (Withdrawn) The platen of Claim 28 including a tapered surface adjacent the edge and configured to lift a leading edge of the media.

37. (Canceled)

38. (Withdrawn) The platen of Claim 28, wherein each of the first continuous segment and the second continuous segment has a minimum width transverse to the media path of 6 millimeters.

39. (Canceled)

40. (Withdrawn) The platen of Claim 28, wherein the first continuous segment terminates at the first end wall and a second end wall and wherein the first continuous segment has a length configured such that a first medium overhangs each of the first end wall and the second end wall by at least 2 millimeters.

41. (Withdrawn) The platen of Claim 40, wherein the first end wall and the second end wall are spaced such that the medium overhangs the end walls by a distance of at least 3 millimeters.

42. (Withdrawn) The platen of Claim 40, wherein the second continuous segment terminates at a third end wall and a fourth end wall and wherein the fourth end wall is spaced from the first end wall such that a second medium overhangs the first end wall and the fourth end wall by a distance of at least 2 millimeters.

43. (Withdrawn) The platen of Claim 42, wherein the first end wall and the fourth end wall are spaced such that the second medium overhangs the first end wall and the fourth end wall by a distance of at least 3 millimeters.

44. (Withdrawn) The platen of Claim 40, wherein the second continuous segment terminates at a third end wall spaced from the second end wall such that the first medium overhanging the second end wall spaced from the third end wall by a distance of at least 2 millimeters.

45. (Withdrawn) The platen of Claim 28, wherein the first edge segment extends between a first channel and a second channel and wherein the first channel and second channel each have a width of at least about 4 millimeters.

46. (Withdrawn) The platen of Claim 28 including:

a first channel adjacent a first end of the first segment;

a second channel adjacent a second end of the first segment and adjacent a first end of the second segment; and

a third channel adjacent a second end of the second segment.

47. (Canceled)

48. (Canceled)

49. (Canceled)

50. (Previously Presented) The printer of Claim 1, wherein the edge is configured to contact an underside of a supported medium.

51. (Previously Presented) The printer of claim 50, wherein the edge is configured to contact the underside of the supported medium at a location opposite a portion of a top side of the supported medium as the portion is being printed upon by the printhead.

52. (Withdrawn) The platen of Claim 28, wherein the edge is configured to contact the underside of the supported medium at a location opposite a portion of a top side of the supported medium as the portion is being printed upon by a printhead.

53. (Previously Presented) A printer comprising:

a printhead along a media path having a first width; and

a structure having an edge extending across a majority of the first width of the media path, wherein the edge extends between a first channel and a second channel and wherein the first channel and second channel each have a width of at least about 4 millimeters.

54. (Previously Presented) A printer comprising:

a printhead along a media path having a first width;

a structure having an edge extending across a majority of the first width of the media path; and

an ink recipient extending across the media path, wherein the structure is configured to elevate the medium above collected ink of the ink recipient by a distance of at least about 2 millimeters.

55. (Previously Presented) A printer comprising:

a printhead along a media path having a first width;

a structure having an edge extending across a majority of the first width of the media path; and

an ink recipient extending across the media path; and

a landing opposite the structure, wherein the ink recipient extends between the landing and the structure and wherein the landing and the structure are configured to support the media such that the media extends in an arc across the ink recipient.

EVIDENCE APPENDIX

There is no evidence previously submitted under 37 C.F.R. §§ 1.130, 1.131 or 1.132 or other evidence entered by the Examiner and relied upon by Appellant in this appeal. Accordingly, the requirements of 37 C.F.R. §§ 41.37(c)(1)(ix) are satisfied.

RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by a Court of the Board in a proceeding identified in the Related Appeals and Interferences section. Accordingly, the requirements of 37 C.F.R. §§ 41.37(c)(1)(x) are satisfied.